

RECEIVED  
CENTRAL FAX CENTER

NOV 03 2005

**STEVEN HOROWITZ**  
COUNSELOR AT LAW  
295 MADISON AVENUE  
SUITE 700  
NEW YORK, NEW YORK 10017  
(212) 867-6800

REGISTERED TO PRACTICE BEFORE  
U.S. PATENT & TRADEMARK OFFICE

FACSIMILE (212) 685-6862  
E-MAIL: patentattorney@aol.com

**FACSIMILE TRANSMITTAL**

**TO: CENTRAL SCANNING, ART UNIT 3742**  
**571-273-8300**

**Date: November 3, 2005**

**FROM: Steven Horowitz, Esq.**

**NUMBER OF PAGES (including cover sheet): 3**

This transmission is for the use of the above recipient only and may contain privileged and confidential information. If you are not a named recipient, any use or dissemination is strictly prohibited. If you received this in error please destroy it and contact (212) 867-6800.

**COMMENTS:**

**RE: U.S. Patent Application No. 10/646,174**

**Applicant: LERNER, William S.**

**Title: Enhanced Visibility Heat Alert Safety Device For Hot Surfaces**

**SEE ENCLOSED TERMINAL DISCLAIMER**

RECEIVED  
CENTRAL FAX CENTER

NOV 03 2005 16:22

P.03

NOV 03 2005

PTO/SB/26 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)  
LERNER3A

In re Application of: LERNER, WILLIAM S.

Application No.: 10/646,174

Filed: 08/21/2003

For: ENHANCED VISIBILITY HEAT ALERT SAFETY DEVICE FOR HOT SURFACES

The owner, WILLIAM S. LERNER, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 8,700,100 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;  
is held unenforceable;  
is found invalid by a court of competent jurisdiction;  
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;  
has all claims canceled by a reexamination certificate;  
is reissued; or  
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

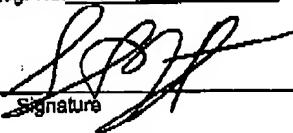
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. 31,768

11/04/2005 TL0111 00000006 10646174

01 FC:2622

55.00 DD



NOVEMBER 3, 2005

Date

STEVEN HOROWITZ  
Typed or printed name

212-667-6800  
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.